

MVP: McKool Smith's Kenneth Frenchman

Law360, New York (December 14, 2017, 2:23 PM EST) -- McKool Smith PC's Kenneth Frenchman has helped policyholders access hundreds of millions of dollars from contested insurance policies over the past year, including a major win in the Superior Court of New Jersey that unlocked \$400 million for the NJ Transit Corp., earning him a spot on Law360's list of 2017 Insurance MVPs.

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

Frenchman said the NJ Transit case is the one he's most proud of this year, both in terms of the sheer dollar amount at stake and because the funds will go a long way toward helping rebuild in the wake of Superstorm Sandy.

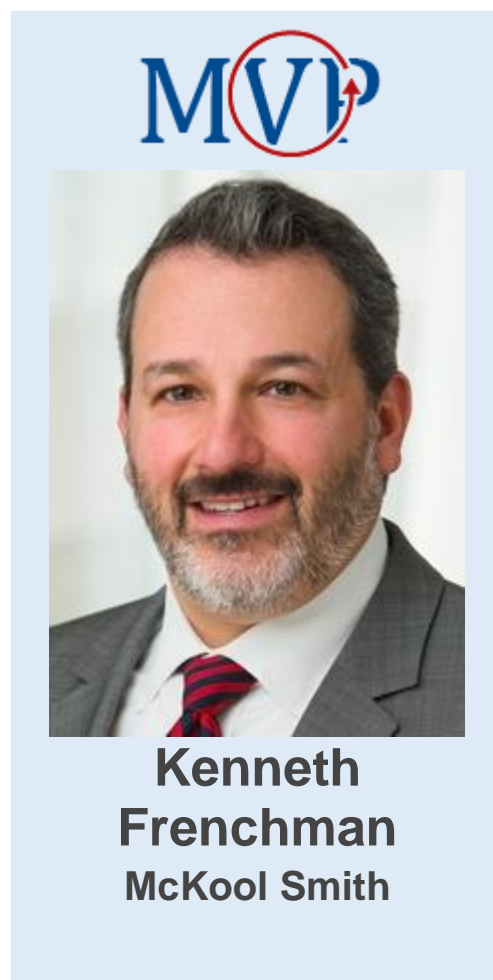
A group of excess insurers had originally sought to cap NJ Transit's insurance coverage at \$100 million for flood damages caused by Sandy, but with Frenchman and McKool Smith's help, the public transit system was able to recover the full \$400 million policy limit.

"We were up against very aggressive counsel from four different firms, with the insurers seeking not only to block our right to recovery under the plan language of the policy but also to reform the policy language itself," Frenchman said. "Discovery went on for years, and there were seven dispositive motions filed, but we swept them all and were able to end the case on summary judgment."

"It was absolutely critical for NJ Transit to prove it was entitled to all of this coverage, and it's extremely rewarding to know the public will benefit from the court's decision," he added.

HIS BIGGEST CHALLENGE THIS YEAR:

In February, the New Jersey Supreme Court handed Frenchman a win that capped off years of work on a case that had been practically stillborn when he took it on.



Givaudan Fragrances Corp. was fighting to recover more than \$500 million in policies to put toward claims over environmental damage to the Passaic River, but shortly after Frenchman came onboard in 2012 his new client suffered a gut-wrenching setback — a trial court judge dismissed the entire case.

Frenchman said appealing that decision and getting the case back on track has taken laser focus and a Herculean effort over the past few years.

“Suddenly, our client was faced with the very real possibility of losing all of the \$500 million in policies it was counting on to deal with this environmental litigation,” Frenchman said. “We had a very difficult time of it, but eventually we got that overturned in the Appellate Division, and in 2015 the Supreme Court granted us certiorari.”

“Thankfully we won in a unanimous decision, which was a major victory for us, but when we started, we really were at rock bottom and that took a lot of hard work to overcome.”

HIS PROUDEST MOMENT AS AN ATTORNEY:

Frenchman said he’s immensely proud of how well the small, tight-knit insurance group at McKool Smith works together and what they’ve accomplished over the last 10 years or so. When it comes to his personal performance as an attorney though, one courtroom incident in particular sticks out.

“I was in New Jersey trial court for a case about five years ago before an extremely hostile judge, arguing a very technical insurance coverage allocation issue worth \$20 million to my client,” Frenchman said.

“One of the insurer’s attorneys got up, made his argument in five minutes and the judge basically agreed with him — I had to stand up and say ‘Your Honor, may I be heard’ just to present my argument.”

“I was literally on my feet for the next three hours, arguing with this judge while he yelled at me and pounded his fist on the podium. He was extremely angry. By the time it was over, I was exhausted but I had a hunch I had made some progress,” Frenchman added. “The next week he handed down a decision that basically agreed with my argument. That was a very proud moment for me, to win a big motion and have it all come down to the oral argument.”

WHAT MOTIVATES HIM:

“What really motivates me is winning and collecting money for my clients,” Frenchman said. “That sounds a little glib, but it’s true.”

“When I was younger, I played a lot of sports, and I’m a very competitive person,” he added. “Litigation is one of the few jobs where there are winners and losers, and that’s really allowed me to keep my competitive fire burning. The stakes add a lot of pressure, but it also makes the reward that much more enjoyable, especially when winning means getting my clients paid as quickly and efficiently as possible.”

— *As told to Ryan Boysen*

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year

through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2017 MVP winners after reviewing more than 1,000 submissions.

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